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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/901,717      | 07/11/2001  | Herbert Uram         |                     | 6761             |

7590 12/28/2004

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| EXAMINER |
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GANEY, STEVEN J

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3752

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/901,717

Applicant(s)

URAM, HERBERT

Examiner

Steven J. Ganey

Art Unit

3752

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 December 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
STEVEN J. GANEY  
PRIMARY EXAMINER

12/17/04

Continuation of 5. does NOT place the application in condition for allowance because: Applicant has still not proven in the examiner's opinion that the application disclosure contains sufficient evidence and reasoning to permit a person of ordinary skill in the art to believe that the asserted utility or that the process disclosed could achieve the asserted useful result, since applicant has shown no evidence of reducing the speculation and conjecture to practice in either a laboratory or natural environment setting. Applicant has not presented any evidence to support the assertion of a credible utility, only speculation and conjecture. The article provided further supports the examiner's opinion since such "dreams of control" are based on weather prediction computer models, which as quoted in the article, "Even today's best weather prediction computer models leave much to be desired when it comes to forecasting", "Unfortunately, meteorological forecasts are imperfect. In the first place, the beginning model state is always incomplete and inexact. Initial states for hurricanes are particularly difficult to define because direct observations are few and difficult to make. Second, even with a perfect initial state, computer models of severe tropical storms are themselves prone to error", and "In addition, the models, just like the atmosphere they simulate, behave in a chaotic fashion, and inaccuracies from both these error sources grow rapidly as the forecast computations proceed". This unpredictability of forecasting was noted recently, where the weather prediction computer models had predicted the path of Hurricane Charley to hit the Tampa area, unfortunately, the unpredictable and chaotic hurricane Charley suddenly took a very different path through Charlotte Harbor, about halfway between Fort Myers and Sarasota, which the computer models did not predict .